

AFFIDAVIT

STATE OF WASHINGTON

COUNTY OF KING

} ss

I, Susan M. Roe, being duly sworn on oath say,

I am one of the Assistant United States Attorneys assigned to this case and make this affidavit in that capacity. I make this affidavit based on my personal actions in this matter and a review of court records and documents, and conversations and emails I have had with others as attributed.

On June 30, 2011, I, together with Special Agent Dan Fortmann, met with Dustin Haugen, a defendant in a criminal case in the Western District of Washington, to determine whether Haugen had information which could be relevant to the prosecution of Henry Rosenau. Dustin Haugen was accompanied by his attorney, Frank Cikutovich, and a paralegal, Sara Hayden. Mr. Haugen, a Canadian citizen, was in custody in the Whitman County jail after being extradited from Canada on April 28, 2011.

In the Eastern District of Washington, Mr. Haugen entered a guilty plea on July 29, 2011, to one count of Conspiracy to Import 100 kilograms or more of Marijuana, and entered a guilty plea to an amended Plea Agreement on September 8, 2011, and he was sentenced on April 28, 2012. Although his guideline range was calculated by the U.S. Probation Office to be 46 to 57 months and the parties had negotiated within the Plea Agreement on an agreed range of 12 to 28 months, Mr. Haugen was sentenced to credit for time served that day. Mr. Haugen returned to Canada within a few days, but Special Agent Jennifer Hinckley was able to serve him with a trial subpoena at the border before he entered Canada.

Mr. Haugen and his attorney directed that all contact be made through counsel Frank Cikutovich. Working with Mr. Cikutovich, and enlisting the help of AUSA Aine Ahmed, the attorney who prosecuted Mr. Haugen in the Eastern District of Washington, I was able to convince Mr. Haugen to honor the non-binding trial subpoena. He returned to

1 the United States on April 24, 2012, and testified on April 24, 2012 in *United States v.*
2 *Rosenau*, CR06-157 MJP.

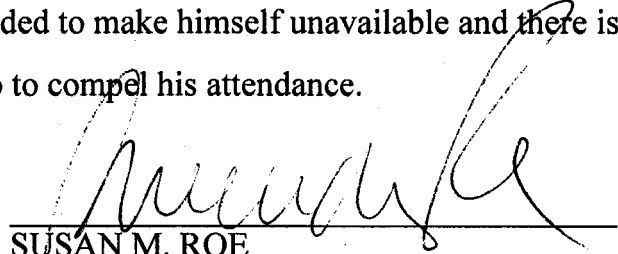
3 I first emailed Mr. Cikutovich requesting Mr. Haugen's return on the day the
4 mistrial was declared. On May 11, 2012, Special Agent Hinckley arranged his parole at
5 the border for testimony at the new trial date of July 11, 2012, and I have read those
6 emails. I attach copies of the initial emails. I have sent emails to Mr. Cikutovich about
7 paying the witness' transportation costs and have worked with Debbie Lee, the supervisor
8 of this office's Victim Witness Unit about facilitating his appearance.

9 Since May, I have continued to email and call Mr. Cikutovich in an effort to secure
10 Mr. Haugen's presence. In early June I contacted Mr. Ahmed for his more assistance in
11 convincing Mr. Haugen to return. Within the past few weeks, Mr. Cikutovich has
12 indicated that Mr. Haugen is disinclined to return. The government continues to urge Mr.
13 Haugen to return but has no method for compelling his attendance.

14 Yesterday afternoon, July 9, 2012, I received the attached email from Mr.
15 Cikutovich. Mr. Haugen refuses to come back to the United States to testify.

16 I asked Special Agent Hinckley to run a TECS check on Mr. Haugen to determine
17 whether he had come into the United States since his April 24, 2012 appearance. She did
18 so and he has no further entries into the United States. I have attached a copy of that.
19 Since Mr. Haugen has remained outside of the United States, he could not be served with
20 a subpoena in this case.

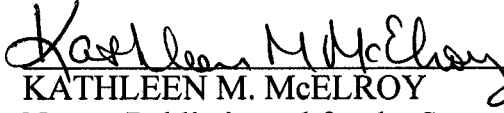
21 Mr. Haugen is outside of the United States. The government has made several
22 good faith attempts to convince him to return to the United States to testify in this trial
23 including smoothing his border parole, offering to cover his transportation costs and
24 urging his attorney to assist. He has decided to make himself unavailable and there is
25 nothing more that the government can do to compel his attendance.

26
27
28

SUSAN M. ROE
Assistant United States Attorney

1 SUBSCRIBED and SWORN to before me this 10th day of July, 2012, by

2
3 Susan M. Roe.

4
5
6
7 (Notary Seal)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

KATHLEEN M. McELROY
Notary Public in and for the State
of Washington, residing at Seattle.
My appointment expires May 16, 2015.

Roe, Susan (USAWAW)

From: Frank [fudea@earthlink.net]
Sent: Monday, July 09, 2012 4:23 PM
To: Roe, Susan (USAWAW)
Subject: use for affidavit

Ms. Sue Roe,
Dustin Haugen is unavailable to return to the United States. He has recently obtained employment and is not able to get time off of work. If the court or any party needs further information please feel free to contact me.

frank Cikutovich
509-323-9000

From: Hinckley, Jennifer E
Sent: Friday, May 11, 2012 11:21 AM
To: Lockman, Lisa M
Subject: RE: Parole Authorization for HAUGEN - 90-day authorization

Lisa,
I forgot to let you know that our Trial was deemed a Mistrial as the Jury could not reach a verdict.
We now have to select a new jury and do it all over again. Same witnesses same court house. We hope to have Dustin Haugen come back down to testify. I told you earlier that he would no longer be needed but now that we have to do it over I will need to have him Paroled in once again.

The new trial date is Wednesday July 11. I am not sure what day he will be testifying - but I imagine that he will enter through Sumas, WA POE again.

Please let me know if I need to do another request... if I need to submit the Tracking Form for the last one still.... Or if the last request remains open and we can do it all under that.

Thanks.
Jenni

360-410-

From: Lockman, Lisa M
Sent: Thursday, May 03, 2012 1:56 PM
To: Hinckley, Jennifer E
Subject: RE: Parole Authorization for HAUGEN - 90-day authorization

Jenni,

Would you please complete the attached tracking form (#5) to indicate the subject's parole was executed and to identify the date he returned to Canada. Just scan/email a signed copy back to me.

HQ is requiring these tracking sheets for each parole when it is completed or terminated.

Thanks,

Lisa Lockman

HSI Seattle | 206-442-1 206-

From: Hinckley, Jennifer E
Sent: Thursday, May 03, 2012 12:24 PM
To: Lockman, Lisa M
Subject: Re: Parole Authorization for HAUGEN - 90-day authorization

Mr haugen is done testifying and will not need to return.
Thank you for your assistance.

From: Lockman, Lisa M
Sent: Thursday, May 03, 2012 03:20 PM
To: Hinckley, Jennifer E
Cc: Mills, Eric E
Subject: Parole Authorization for HAUGEN - 90-day authorization

Jenni,

You may have received this message from Greg Small - I misfired on email.

The HQ Law Enforcement Parole Unit (LEPU) just authorized the HAUGEN parole for 90-days, as of today. Please see attached parole authorization and tracking sheet.

Do you anticipate he will return for future hearings? If so, we will still need to know dates in advance so that we can alert CBP at the ports. CBP needs to know definitively which days the subject is arriving.

Thanks,

Lisa Lockman
U.S. Immigration and Customs Enforcement | Homeland Security Investigations Seattle
206-442- | 206-535

15:31
TID=1MOL

TECSII - PRIMARY QUERY HISTORY
PASSENGER ACTIVITY

07102012 T2MP0606
T2PP0656

PAGE NO. 0001

NAME	DOB	DATE	TIME	AGN	RSLT	TYP	REF	LANE	API	DIM
HAUGEN, DUSTIN	082	042412	1106	CUS	TECS	PED		R7QG	N	N
L303-SUMAS, PORT OF ENTRY	DOC:	198259018719				CA F		INSP:		160
HAUGEN, DUSTIN	082	042412	0957	CUS	TECS	VEH	CUS	SS01	N	N
L303-SUMAS, PORT OF ENTRY	DOC:							INSP:		5121

TO VIEW HIT REFERRAL DATA, ENTER "V"; TO VIEW DOC IMAGE, ENTER "I"; PRESS ENTER
END OF DATA

(PF1=HELP) (PF2=FIELD HELP) (PF3=MAIN MENU) (PF4=PREV MENU)
(PF5=FIRST PAGE) (PF7=PREV PAGE) (PF8=NEXT PAGE)